



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1994

Mr. Nathan B. Rheinlander
Office of County Attorney
Comal County
150 N. Seguin, Suite 318
New Braunfels, Texas 78130

OR94-196

Dear Mr. Rheinlander:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 24251.

The Comal County Sheriff's Department (the "department") received an open records request from a job applicant for "any and all information contained within my employment file(s)." You contend that the information contained in the "background check" that the department conducted on the applicant comes under the protection of section 552.111 of the Government Code (former V.T.C.S. article 6252-17a, section 3(a)(11)).

Section 552.111 protects interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) (copy enclosed). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 at 5, this office held that

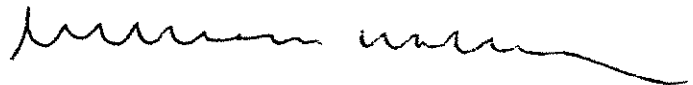
¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters [Emphasis in original.]

The information at issue here pertains solely to the routine personnel matter of checking the references of a job applicant and as such does not pertain to the "policymaking functions" of the department. Consequently, the requested information does not come under the protection of section 552.111. Because you have raised none of the act's other exceptions to required public disclosure, the department must release the background check in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Government Section

WW/RWP/rho

Ref.: ID# 24251

Enclosures: Open Records Decision No. 615
Submitted documents

cc: Mr. Charles F. Coulter
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(w/o enclosures)